

1 THE HONORABLE RICARDO S. MARTINEZ
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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON

7 CECIL THOMAS; PAMELA THOMAS,

8 Plaintiffs,

9 vs.

10 OCWEN LOAN SERVICING, LLC;
11 DEUTSCHE BANK NATIONAL TRUST
12 CO.; QUALITY LOAN SERVICE CORP.
OF WASHINGTON.

13 Defendants,

Case No. : 2:17-CV-01222-RSM

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15 DECLARATION OF SIERRA
16 HERBERT-WEST IN SUPPORT OF
17 QUALITY LOAN SERVICE CORP.
18 OF WASHINGTON'S MOTION FOR
19 SUMMARY JUDGMENT

I, Sierra Herbert-West, hereby declare as follows:

1. I am over the age of eighteen and competent to make this declaration.

2. I am an employee of Quality Loan Service Corporation of Washington (hereinafter, "Quality"). I am duly authorized to make this declaration on behalf of Quality. I have the personal knowledge required to execute this declaration, and can confirm the accuracy of the information set forth herein. If sworn as a witness, I could competently testify to the facts contained herein.

3. Quality is engaged in the business of providing nonjudicial foreclosure services to lenders, servicers, and Trustees of mortgage loans.

4. In the regular and ordinary course of business, Quality collects and maintains business records and documents related to any loan that is referred to them by a lender/servicer for the purpose of advancing a non-judicial foreclosure. Quality employees, including myself, have continuing access to those records and I have personally reviewed them in preparation of this declaration. The exhibits to this

1 declaration are taken from business records that include physical and electronic
 2 records of foreclosure activity, events and transactions. As part of my job
 3 responsibilities I have personal knowledge of Quality's procedures for creating and
 4 maintaining foreclosure records.

5 5. On December 15, 2016, Quality received a referral for a non-judicial
 6 foreclosure of the Thomas Deed of Trust from Ocwen Loan Servicing, LLC
 7 (hereinafter "Ocwen") to advance a foreclosure on behalf of DEUTSCHE BANK
 8 NATIONAL TRUST COMPANY as Trustee for INDYMAC INDEX MORTGAGE
 9 LOAN TRUST 2006-AR4, MORTGAGE PASS-THROUGH CERTIFICATES
 10 Series 2006-AR4 (hereinafter "Deutsche Bank"). After receipt of the foreclosure
 11 referral, Quality subsequently received a copy of the Thomas Promissory Note and
 12 associated subject Thomas Deed of Trust from Ocwen. A true and correct copy of
 13 the Promissory Note endorsed in blank is attached hereto as **Exhibit A**. A true and
 14 correct copy of the associated Deed of Trust recorded March 10, 2006, in King
 15 County under Auditor's File No. 20060310001131 secured by the Promissory Note
 16 is attached hereto as **Exhibit B**.

17 6. Within the foreclosure referral for the Thomas Deed of Trust received
 18 by Quality on December 15, 2016, was included a copy of a Demand Letter issued
 19 by Ocwen dated November 2, 2016 outlining to the Trustee the basis of the default
 20 supporting the foreclosure referral. A copy of the Ocwen Demand Letter is attached
 21 hereto as **Exhibit C**.

22 7. Quality employees do not have access to Ocwen's accounting system.
 23 Quality communicates with Ocwen primarily through an electronic system called
 24 Equator and Quality relies on Ocwen to provide the Trustee information related to a
 25 subject default associated with a request for foreclosure.

26 8. On December 22, 2016, Quality received a Payoff Quote from Ocwen
 27 for the Thomas loan which contained a total amount due of \$414,052.43 with a good
 28 through date of January 13, 2017. The Trustee used this information as a basis to
 confirm the loan was in default and to advance the requested foreclosure. A copy of

1 the Ocwen December 22, 2016 Payoff Quote is attached hereto as **Exhibit D**.

2 9. On January 23, 2017, Ocwen as Attorney in Fact for Deutsche Bank
3 executed a Declaration of Ownership declaring Deutsche Bank to be the actual holder
4 of the Thomas Promissory Note. A copy of the Ownership Declaration is attached
5 hereto as **Exhibit E**. The information in the Declaration of Holdership is consistent
6 with the information in the foreclosure referral received by the Trustee from Ocwen.

7 10. On January 24, 2017, Deutsche Bank appointed Quality as Successor
8 Trustee pursuant to an Appointment of Successor Trustee recorded February 3, 2017
9 in King County under Auditor's File No. 20170203000038 (the "Appointment"). A
10 copy of the Appointment is attached hereto as **Exhibit F**.

11 11. On February 16, 2017, Quality received a Payoff Quote from Ocwen
12 for the Thomas loan which contained a total amount due of \$417,195.05 with a good
13 through date of March 17, 2017. The Trustee used this information as a basis to
14 confirm the loan was in default prior to issuing the underlying Notice of Default. A
15 copy of the Ocwen February 16, 2017 Payoff Quote is attached hereto as **Exhibit G**.

16 12. On February 16, 2017, Quality received a Reinstatement Quote from
17 Ocwen for the Thomas loan which contained a total amount due of \$90,134.52 with
18 a good through date of March 17, 2017. The Trustee used this information as a basis
19 to confirm the loan was in default prior to issuing the underlying Notice of Default.
20 A copy of the Ocwen February 16, 2017 Reinstatement Quote is attached hereto as
21 **Exhibit H**.

22 13. On February 21, 2017, Quality caused a Notice of Default to be
23 prepared and mailed pursuant to RCW 61.24.031. A copy of the Notice of Default is
24 attached hereto as **Exhibit I**.

25 14. On April 11, 2017, Quality executed and issued a Notice of Trustee's
26 Sale causing it to be recorded April 11, 2017 in King County under Auditor's File
27 No. 20170411001651. The Trustee's Sale was noticed to be held August 11, 2017.
A copy of the Notice of Trustee's Sale is attached hereto as **Exhibit J**.

28 15. On May 5, 2017, Quality placed the Thomas non-judicial foreclosure

on an internal hold to review and escalate the issues raised by the borrower's counsel concerning the default to Ocwen. Quality contacted Ocwen and requested confirmation that the loan was in default.

16. Ocwen on June 5, 2017, confirmed the loan remained in default and advised the Trustee to remove their internal hold and to proceed with advancing the non-judicial foreclosure.

17. The Thomas Trustee's Sale was originally scheduled to be held as notice August 11, 2017. The original Thomas Trustee's Sale date was postponed by Quality on August 10, 2017 for a period of two weeks under an exercise of its discretionary authority pursuant to RCW 61.24.040(10) to allow the Plaintiffs the opportunity to seek an order restraining sale.

18. On December 4, 2017, Quality executed and issued a Notice of Discontinuance of Trustee's Sale causing it to be recorded December 4, 2017 in King County under Auditor's File No. 20171204002002. A copy of the Discontinuance of Trustee's Sale is attached hereto as **Exhibit K**.

19. To date a Trustee's Sale has not been held by Quality concerning the subject property 15844 148th Ave NE Woodinville, WA 98072 secured under the Thomas Deed of Trust.

20. **Redaction.** Any documents submitted as Exhibits in connection with this declaration have been redacted to remove Plaintiffs' loan numbers and personal identifiers.

I HEREBY DECLARE THAT THE ABOVE STATEMENT IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND IT IS MADE FOR USE AS EVIDENCE IN COURT AND IS SUBJECT TO PENALTY FOR PERJURY.

Dated: February 5, 2019

By: /s/ Sierra Herbert-West
Sierra Herbert-West, Vice President
Quality Loan Service Corp. of Washington